

The Opt-Out Register for Fax and Telephone - Guidance for Subscribers

Guidance Note 10/13

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The Opt-Out Register for Fax and Telephone – Guidance for Subscribers

- The Opt-Out Register for fax and telephone

The opt-out register (the “Register”) is a service provided by the Gibraltar Regulatory Authority (“GRA”), as the Data Protection Commissioner (the “Commissioner”), for fixed line and mobile subscribers who do not want to receive unsolicited direct marketing calls and/or faxes.

The maintenance of the Register, for the use of fax machines and telephones in direct marketing, are contained in Regulations 26 and 27 of the Communications (Personal Data and Privacy) Regulations 2006 (the “Regulations”).

How to Register

To make an application on the Register, please download a copy of the application form found on our website. Please note that the application form is for both fax and telephone and registration is a free service and carries no fee.

The completed and signed application should be sent via post to:

Opt-Out Register
Gibraltar Regulatory Authority
Suite 603
Europort
Gibraltar

Or by fax to +350 200 72166

Or email a scanned copy, signed and dated to opt-out@gra.gi

Or hand delivered to our offices.

Unsolicited direct marketing via fax

- Key points and questions on fax marketing

1. Opting out from unsolicited direct marketing via fax is a service offered to business subscribers.
2. Residential subscribers do not need to opt-out from unsolicited direct marketing via fax because it is prohibited by the Regulations, unless the subscriber has given consent.
3. It takes 28 days for a preference to opt-out to come into force. In the meantime, business subscribers may receive unsolicited direct marketing via fax, without it being in breach of the Regulations.

4. Where consent has been given, a subscriber can withdraw consent to be sent unsolicited direct marketing via fax at any time, in which case, further marketing faxes must not be sent to that number.
 5. There is no fee for registration in the Register.
 6. Once your preference is recorded in the Register it will remain there unless you decide to withdraw your application.
- Can business subscribers register their number(s) in the Register?

Yes, they can. We recommend that they do so for extra protection, particularly if they are sole traders or unincorporated partnerships whose contact details may be available in business directories.

- I'm ex-directory. Do I need to register if I want to stop unsolicited marketing faxes?

Yes. Going ex-directory will not prevent unsolicited direct marketing faxes. Many marketers use technology to generate fax numbers at random and as a consequence, ex-directory numbers may be generated. Once a list of numbers is generated, the marketer must use their best endeavours to ensure that numbers belonging to individual subscribers are removed. The list must also be screened against the Register.

- How do I stop unsolicited faxes?

If you have not done so already, you should also register your number on the Register.

If you have Registered, but it is less than 28 days since you applied to opt-out, or you have previously given consent to the marketing, you can request the marketer to stop sending you marketing. There should be an address or freephone number on the fax (it may be in very small print so check carefully). Contact the marketer at that address or the freephone number and tell them to stop. They are also legally obliged to stop making calls to you if you ask them to. Ensure you provide them with details of the number that they contacted you on. This enables them to add those details to their suppression list which will ensure that they keep a record of your objection. We suggest you keep a record of your request.

- How do I make a complaint about unsolicited direct marketing via fax?

You can make a complaint to the Commissioner in writing or via email to:

Opt-Out Register
Gibraltar Regulatory Authority
Suite 603
Europort
Gibraltar
privacy@gra.gi

- Can I get compensation having made my complaint to the Commissioner?

Yes, Under Regulation 32 and provided that you can prove that you have suffered loss or damages as a result of the unsolicited faxes, you can then make a claim for damages by contacting the Commissioner.

However, under Regulation 30 (1) a person, may also bring proceedings in Court for compensation from an entity, for damaged suffered.

Please note that an individual can choose whether to make the complaint to the Commissioner or bring proceedings to Court.

Telephone Marketing

- Key Points and questions on Telephone Marketing

1. Opting out from unsolicited direct marketing calls is a service offered to both individuals and business subscribers.
2. If you ask a marketer to stop making telesales calls to your number, the organisation must comply with your request.
3. Organisations cannot make or instigate the making of unsolicited telesales calls to numbers listed on the Register.
4. Even if your number is recorded on the Register, organisations will still be able to make or instigate the making of unsolicited telesales calls to your number, if you have notified that, for the time being, you do not object to receiving such calls on that registered number.
5. There is no fee for registration in the Register.
6. Once you register, your number will remain on the Register, unless you decide to withdraw your application.

- Can I register my home number?

Yes. A home, work, and mobile number can be registered.

- Can I register more than one telephone number?

Yes.

- I'm ex-directory. Do I need to register if I want to stop unsolicited telesales calls?

Yes. Going ex-directory will not prevent unsolicited direct marketing calls. Many marketers use technology to generate telephone numbers at random. As a consequence, ex-directory numbers may be generated. Once a list of numbers is generated, marketers must ensure that this list is screened against the Register.

- How do I stop unsolicited direct marketing calls?

If you have not done so already, you should also register your number on the Register.

If you have Registered, but it is less than 28 days since you applied to opt-out, or you have previously given consent to the marketing, you can request the marketer to stop sending you marketing.

Ask the marketer for their contact details. They are legally obliged to provide you with their contact details. This should be either in the form of an address or a freephone number. Subsequently, you can contact them and request them to stop. Ensure you provide them with details of the number that they contacted you on. This enables them to add those details to their suppression list which will ensure that they keep a record of your objection. Keep a record of your request.

- Does applying to the Register stop all calls?

No. It should only stop unsolicited marketing calls.

- I have just registered in the Register but I keep receiving unsolicited direct marketing calls?

It takes 28 days for a preference to opt-out to come into force. In the meantime, you may receive unsolicited direct marketing calls, without them being in breach of the Regulations. However, you can request the marketer to stop sending you marketing and they should comply.

If you keep receiving unsolicited direct marketing calls more than 28 days after your details have been recorded in the Register, or after you have told the company in question not to contact you again, you may wish to complain to the Commissioner. We can investigate, and where possible and necessary, can prosecute the company.

- I asked a company for a quote and now they won't stop calling me. Should I register on the Register to stop them calling me?

Registering on the Register may not prevent calls from any organisation whose calls you have previously invited and which has assumed that you are happy to receive calls from them.

You should write directly to the company and ask them to stop calling you. You should remember to tell them which number(s) they should no longer call. They must comply with this request.

- I have just registered on the Register but there are some companies I do want to receive direct marketing calls from.

As long as you give consent to the companies you want to receive direct marketing calls from, they can do so.

- If we register our switchboard number, is that enough to prevent unsolicited direct marketing calls to all of our numbers?

No. You are registering a general objection to receiving such calls on a particular number. If you want to stop receiving such calls on all your numbers you must register all of them. Registration remains free of charge for both individual and business subscribers.

- I have just applied for a new telephone number and the Telephone Operator has given me a number of a former customer. Can I check whether this number is in the Register?

Yes. You may contact the Commissioner.

- I cannot remember what telephone number I have registered in the Register

Any subscriber has a right to ask for his/her registered numbers contained in the Register. You should contact the Commissioner.

- Can anyone in my household apply to register in the Register?

Strictly speaking, only the telephone subscriber has a right to register the main household telephone number in the Register. However, a service provider can take instruction from another member of the household where the service provider is satisfied that that person is acting on behalf of, or with the consent of, the subscriber.

- Can I leave the Register?

Yes. You can leave the Register by writing and instructing the Commissioner to remove you from the register.

- How do I make a complaint about unsolicited direct marketing calls?

You can make a complaint to the Commissioner in writing or via email to:

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Suite 603
Europort
Gibraltar
privacy@gra.gi

- Can I get compensation having made my complaint to the Commissioner?

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However, under Regulation 30 (1) a person, may also bring proceedings in Court for compensation from an entity, for damaged suffered.

Please note that an individual can choose whether to make the complaint to the Commissioner or bring proceedings to Court.

Further guidance on the Register is provided in the following documents, which are available on the GRA's website.

- The Opt-Out Register for Fax and Telephone – Guidance for Marketers
- The Opt-Out Register for Fax and Telephone